

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA

FILED
JUL 11 2011
WILLIAM B. GUTHRIE
Clerk, U.S. District Court
By Deputy Clerk

UNITED STATES OF AMERICA,

Plaintiff,

v.

GABRIEL HENSON

Defendant.

Case No. **CR 11 - 050 - KEW**

INFORMATION - [M]

The United States Attorney charges:

BACKGROUND

A. Clean Water Act

1. The Federal Water Pollution Control Act, commonly known as the Clean Water Act, 33 U.S.C. § 1251 *et seq.*, was enacted by Congress to restore and maintain the chemical, physical, and biological quality of the Nation's waters. 33 U.S.C. § 1251(a). In addition, the Clean Water Act was enacted to prevent, reduce, and eliminate water pollution in the United States and to conserve the waters of the United States for the protection and propagation of fish and aquatic life and wildlife, recreational purposes, and the use of such waters for public drinking water, agricultural, and industrial purposes. 33 U.S.C. § 1252 (a).

2. The Clean Water Act prohibits the discharge of any pollutant into waters of the United States, except in compliance with a permit issued pursuant to the Clean Water Act's National Pollutant Discharge Elimination System ("NPDES") by the United States Environmental Protection Agency ("EPA") or an authorized state. 33 U.S.C. §§ 1311(a), 1342.

3. The term “discharge of a pollutant” is defined as the addition of any pollutant to navigable waters, meaning the waters of the United States, from any point source. 33 U.S.C. § 1362 (12). A “point source” is defined by the Clean Water Act as any discernible, confined and discrete conveyance from which pollutants are discharged, for example a pipe, ditch, or channel. 33 U.S.C. § 1362(14).

B. Pettigrew Well Site

4. Pettigrew Well 18-3H (“well site”) is a natural gas well located near Atoka, Oklahoma. The well site is owned and operated by Antero Resources Corporation. The well site is an earthen pad, above and adjacent to Dry Creek, a tributary of Boggy Creek. Boggy Creek is a “navigable water” as defined by the Clean Water Act. 33 U.S.C. § 1362(7). The earthen pad has a downhill slope towards the creek. An earthen berm, approximately 18 inches in height, was placed at the edge of the pad to prevent any drilling or waste materials from flowing into the creek. The earthen berm at the Pettigrew well site is a “point source” as defined by the Clean Water Act. 33 U.S.C. § 1362(14).

5. Drilling operations for completion of the well so that natural gas could be extracted included the following. “Acidizing” and hydraulic fracturing (or “fracking”) create fractures that extend from the well bore at the surface through rock or coal formations in the substrata. As part of the acidizing and fracking process, “coiled tubing” is inserted thousands of feet through the substrata. In addition, hydrochloric acid is used to penetrate through the rock or coal formations in the substrata. Wastewater generated at the well site that contained hydrochloric acid was a “pollutant” as defined by the Clean Water Act. 33 U.S.C. § 1362 (6).

DEFENDANT

6. At all times relevant to the Information, defendant Gabriel Henson was employed as the coiled tubing supervisor for Integrated Production Services, Inc., the contractor at the Pettigrew well site that performed coiled tubing operations. As an IPS coiled tubing supervisor, defendant Gabriel Henson was aware of the different processes for acidizing and fracking, and was aware that hydrochloric acid was used in these processes at the Pettigrew well site.


COUNT ONE

7. Paragraphs 1 through 6 are realleged and incorporated as if fully set forth herein.

8. On or about May 24, 2007, in the Eastern District of Oklahoma, Defendant Gabriel Henson negligently discharged and cause the discharge of pollutants from a point source into the waters of the United States, to wit: by driving a truck owned by IPS through the Pettigrew well site's earthen berm, and releasing wastewater containing pollutants, including hydrochloric acid, from the Pettigrew well site into Dry Creek.

All in violation of 33 U.S.C. § 1319(c)(1)(A).

MARK F. GREEN
UNITED STATES ATTORNEY



DOUGLAS A. HORN, OBA # 13508
Assistant United States Attorney